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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,318	03/25/2004	Lester Mathews	56149/315991	8008

23370 7590 12/18/2006
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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/810,318

Applicant(s)

MATHEWS, LESTER

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-22 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-22 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 01, 2006 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made:

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3. Claims 1-9, 12-14 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Rule et al. and applicant's admitted prior art.

The Baker reference (Fig. 7) discloses a cleaning system comprising: a pump system including a suction inlet 92, 98 and an outlet 96; a pool 90 including two ends and a bottom (illustrated), and a suction return 91; a connection (between 91 and 92); two rotatable (col. 4 lns. 16-25) cleaning heads 129, 134; and alternate delivery means 103. Re claims 18 and 19, the choice of number of cleaning heads would appear an obvious choice to be made depending upon the size and shape of the pool. Therefore, Baker teaches all claimed elements except for a specified 180 deg. arc cleaning head.

Although the cleaning heads of the Baker pool system do not include a specified 180 deg. arc, as claimed, attention is directed to the Rule et al. (Rule) reference which discloses an analogous pool system which further includes cleaning heads 20 having a specified 180 deg. arc (col. 2 lns. 58-65). Therefore, in consideration of Rule, it would have been obvious to one of ordinary skill in the pool system art to associate a specified 180 deg. arc with the Baker cleaning heads in order to efficiently direct debris toward a drain. Re claim 13, an indexing cleaning head capable of being limited to a 180 deg.

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arc is well known in the indexing nozzle art as acknowledged by applicant as admitted prior art (apa) at page 8 of the instant specification. It would have been obvious to choose such a cleaning head when implementing the teachings of Baker and Rule.

Applicant argues at pages 10-12 of the response filed November 01, 2006 the disclosure at lines 49-52 of column 10 in Baker describes a rotation scheme as illustrated at page 11 of the response. The examiner can not agree as such a strained interpretation would be inconsistent with the entire Baker disclosure. Indeed, Baker teaches a pool cleaning system where rotating nozzles positioned on swimming pool surfaces are successively and intermittently maintained at different fixed angular directions to sweep and agitate dirt on the surfaces. See lines 16-60 in column 4, for example, of Baker. Applicant's argued interpretation would be inconsistent with the Baker disclosure in this regard and therefore can not support patentability of the rejected claims in the manner set forth in the response.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Rule and apa as applied to claim 14 above, and further in view of Kenna et al.

Although the alternate delivery means of the Baker pool system does not include a programmable control, as claimed, attention is directed to the Kenna et al. (Kenna) reference which discloses an analogous pool system which further includes alternate delivery means 86 having a programmable control 104. Therefore, in consideration of Kenna, it would have been obvious to one of ordinary skill in the pool system art to associate a programmable control with the Baker means in order to facilitate pool cleaning.

Applicant failed to address this rejection in the response.


5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Rule and apa as applied to claim 1 above, and further in view of Handzel.

Although the swimming pool of the Baker cleaning system does not include a return inlet and flow ceasing means, as claimed, attention is directed to the Handzel reference which discloses an analogous cleaning system which further includes a swimming pool 10 having a return inlet 50 and flow ceasing means 44. Therefore, in consideration of Handzel, it would have been obvious to one of ordinary skill in the cleaning system art to associate a return inlet and flow ceasing means with the Baker swimming pool in order to enable proper pressure to operate the cleaning system.

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6. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

7. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", is positioned above the printed name.

Robert M. Fetsuga
Primary Examiner
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